

Superior Court of the District of Columbia

United States of America/  
District of Columbia

PSI Due June 12, 2013

vs.

Case No. 2011 CF1 204172

Antonio Jones

SENT June 19, 2013

**PLEA AGREEMENT AND WAIVER OF TRIAL**

PLEA AGREEMENT: Defendant and the Government enter into the following plea agreement:

Mr. Jones agrees to plead guilty to one count of second degree murder while armed pursuant to an illegal agreement of 16 to life years. The government will receive enhancement

**YOU ARE NOT REQUIRED TO PLEAD GUILTY. If you do plead guilty, you will ~~step back~~ give up important rights, some of which are stated below.**

First, you give up your right to trial by the court or by a jury, comprised of 12 members of ~~and~~ the community. At a trial you would be presumed to be innocent, and the Government would be ~~reserve~~ required to present evidence in open court, to prove its case beyond a reasonable doubt. ~~allocation~~

At the trial you have the right to have a lawyer represent you. The lawyer would be able to cross-examine witnesses, file motions to suppress evidence and statements, and make objections and arguments on your behalf. You would have the right to question any witness, and you could have witnesses come to court and testify for you. You would also have the right to testify if you wanted to; however, if you chose not present testimony that decision could not be held against you. You could not be convicted at trial unless the court found that the Government had proved your guilt beyond a reasonable doubt.

Second, you have the right to appeal your conviction to the Court of Appeals. This is a right you would have if you were convicted after trial. The right to appeal includes the right to have the Court of Appeals appoint a lawyer for you and pay for your lawyer's services if you could not afford a lawyer.

Third, if you are not a citizen of the United States, your plea of guilty could result in your deportation, exclusion from admission to the United States, or denial of naturalization.

**Your signature on this form means that you wish to plead guilty and give up your right to trial and your right to appeal. If the court accepts your guilty plea, you will be convicted and the only matter left in the case will be for the court to sentence you. No person can guarantee what your sentence will be.**

**I HAVE REVIEWED THIS FORM WITH MY LAWYER AND HAVE DECIDED TO PLEAD GUILTY IN THIS CASE. I HAVE DECIDED TO GIVE UP MY CONSTITUTIONAL RIGHT TO HAVE A TRIAL AND TO GIVE UP MY RIGHT TO APPEAL.**

Cal Miller  
Asst U.S. Attorney  
Asst. Corporation Counsel

Attorney for Defendant

Antonio Jones  
Defendant

Approved this 17 day June 2013

J. Jones  
Judge 5/14/13

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Dkt: WAIVCRM

U.S. Department of Justice



Ronald C. Machen Jr.  
United States Attorney

*District of Columbia*

*Judiciary Center  
555 Fourth St., N.W.  
Washington, D.C. 20530*

April 15, 2013

Via e-mail

Eugene Ohm, Esq.  
The Public Defender Service  
633 Indiana Avenue, N.W.  
Washington, D.C. 20004

Re: *United States v. Antonio Jones,*  
Case No. 2011CF1020472

Dear Mr. Ohm:

This letter is to confirm the plea offer for your client, Antonio Jones. It is the government's understanding that your client intends to accept this offer, which expires at the next hearing date of April 17, 2013. However, the Government reserves the right to revoke this plea offer at anytime before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

1. Your client Antonio Jones agrees to admit guilt and enter a plea of guilty to the following offenses: Second Degree Murder While Armed in violation of 22 D.C. Code §§ 2103, 4502. Your client understands that the offense of Second Degree Murder While Armed carries a mandatory minimum sentence of ten years and a potential maximum penalty of not more than life, except that the Court may impose a prison sentence in excess of forty years only in accordance with 24 D.C. Code § 403.01(b-2) (requiring thirty days notice of at least one aggravating circumstance).

2. Your client understands that the Government will reserve stepback pending sentencing, will waive any sentencing enhancement papers, and will reserve allocution at sentencing, subject to the terms set forth in paragraphs 5 and 6 of this agreement.

3. Your client understands that the Government agrees that it will dismiss the remaining or greater charges with which he is indicted at the time of sentencing.

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4. The parties further agree that your client, after taking an oath to tell the truth, shall agree to the attached factual proffer in open court on the date of the plea.

5. Your client understands that the Court may utilize the District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines in imposing the sentence in this case. The Government reserves the right to allocute at your client's sentencing in this case.

6. Your client and the Government agree that a sentence of not less than 192 months (16 years) and not more than 228 months (19 years) of incarceration, is the appropriate sentence in this case. Your client and the Government agree, pursuant to Rule 11(e)(1)(C) of the Superior Court Rules of Criminal Procedure, to present this plea agreement to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(e)(3) of the Superior Court Rules of Criminal Procedure. The parties understand, however, that in light of other factors the Court may not agree that such a sentence is an appropriate one and may reject the plea agreement pursuant to Rule 11(e)(4) of the Superior Court Rules of Criminal Procedure. Upon such a rejection, pursuant to Rule 11(e)(4), neither party would then be bound by this plea agreement. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(e)(4), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement.

7. Your client agrees that this letter is binding on the Government, but not binding on the Court, and that he cannot withdraw this plea at a later date because of the harshness of any sentence imposed by the Court.

8. Your client acknowledges and has been made aware that pursuant to the Innocence Protection Act, that there may be physical evidence which was seized from the victim, crime scene or from your client or from some other source that can be tied to your client that could contain probative biological material. Your client understands and agrees that in order to plead guilty in this case, your client must waive and give up DNA testing in this case and must execute the attached written waiver of DNA testing. Your client further understands that should he waive and give up DNA testing now, it is unlikely that he will have another opportunity to have the DNA tested in this case.

9. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute. In particular, your client knowingly and voluntarily waives or gives up his right against self-incrimination with respect to the offense to which your client is pleading guilty before the Court which accepts your client's plea. Your client also understands that by pleading guilty your client is waiving or giving up your client's right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial and the right to confront and cross-examine witnesses.

10. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.

Respectfully,

RONALD C. MACHEN JR.  
UNITED STATES ATTORNEY

By:

  
EMILY A. MILLER  
ASSISTANT U.S. ATTORNEY

**DEFENDANT'S ACCEPTANCE**

I have read this plea agreement and factual proffer and have discussed it with my attorney, Eugene Ohm, Esquire. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses set forth herein.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date:

4/17/13

  
Antonio Jones

**ATTORNEY'S ACKNOWLEDGMENT**

I have read each of the pages constituting this plea agreement, reviewed them with my client, Antonio Jones, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely sets forth the entire plea agreement.

Date: 7/7/13



Eugene Ohm, Esq.  
Attorney for Antonio Jones

### PROFFER OF FACTS

Had this case gone to trial the Government's evidence would have shown beyond a reasonable doubt:

On the night of Saturday, October 15<sup>th</sup>, 2011, 21-year-old Davon Gray was outside in the 2500 block of High Street, S.E., Washington, D.C., for the purpose of borrowing a cellular phone from a friend (W-1) who lived at 2529 High Street, S.E. At the same time, W-1's mother was having a birthday party inside and around the area of the family home. The defendant, Antonio Jones, also known as "A" or "Baby A" (age 19), was the boyfriend of W-1's younger sister, and was attending the party. The defendant knew Gray from earlier years when they both lived at an apartment complex called the Pinnacles, located in the 1500 block of Benning Road, N.E. During the party the defendant socialized with Gray but then stated outside of Gray's presence that he had a problem with Gray. The defendant did not say what the problem was. The guests who were outside were called inside the home to sing happy birthday to W-1's mother. At that point, most of the party guests went inside, but Gray uttered words to the effect that he was about to leave. Having heard Gray state he was about to leave, the defendant remained outside and stood a few feet across from Gray in a small group of people who were located on the sidewalk area. The defendant then fired a semi-automatic pistol at Gray. Gray held his hands and forearms up in front of his face, turned, and ran toward Howard Road. The defendant continued shooting at Gray's back until Gray slowed and dropped to the ground on his back in front of 2539 High Street. The defendant then fled the scene on foot, taking his weapon with him.

At approximately 10:46 p.m., members of the Metropolitan Police Department located Gray, lying unconscious and unresponsive on the sidewalk in front of 2539 High Street, S.E., suffering from multiple gunshot wounds. He was transported to the Medstar Unit at Washington Hospital Center where he was pronounced dead at 11:44 p.m. Gray's remains were transported to the D.C. Office of the Chief Medical Examiner where an autopsy was performed. Dr. Sunil Prashar determined the cause of Gray's death to be eight gunshot wounds to the body. Dr. Prashar ruled the manner of death as a homicide.

Gray did not have a weapon and had not threatened, assaulted or otherwise provoked the defendant in any manner before the shooting. The defendant was not intoxicated at the time of the shooting, and was not suffering from a mental disease or defect that would have significantly impaired his ability to recognize the wrongfulness of his actions or render him unable to conform his behavior to the requirement of the law.

DEFENDANT'S ACKNOWLEDGMENT

I have read and discussed the Government's Proffer of Facts with my attorney, Eugene Ohm, Esquire. I agree, and acknowledge by my signature that this Proffer of Facts is true and correct.

Date: 4/17/13

Antonio Jones

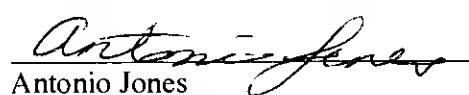
Date: 4/17/13

Eugene Ohm, Esq.  
Attorney for Antonio Jones

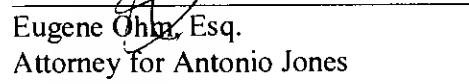
### DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING

My attorney has discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing. I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up DNA testing of any biological materials in this case. I further state that I am fully satisfied with the services my attorney has provided to me and am fully satisfied with the explanation my attorney has provided me concerning the terms of the plea offer, the potential evidentiary value of DNA evidence in this case, and the consequences of waiving and giving up DNA testing in this case and pleading guilty.

Date: 4/17/13

  
Antonio Jones

Date: 4/17/13

  
Eugene Ohm, Esq.  
Attorney for Antonio Jones